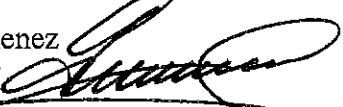


# Memorandum



**Date:** October 6, 2015

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
County Mayor 

Agenda Item No. 3(B)(5)

**Subject:** Resolution Ratifying the Actions of the County Mayor or County Mayor's Designee of Submitting a Grant to the United States Department of Agriculture and Entering Into a Cooperative Agreement for Said Grant to Receive Funding from the Agricultural Land Easement Program for Miami-Dade County's Purchase of Development Rights Program Which is Funded Through the Building Better Communities General Obligation Bond

## **Recommendation**

It is recommended that the Board of County Commissioners (Board) approve the attached resolution, which does the following:

- Ratifies the actions of the County Mayor or County Mayor's Designee in submitting a grant to the United States Department of Agriculture (USDA) for funding through the Agricultural Land Easement Program (ALE) and entering into a cooperative agreement for said grant in substantially the form attached hereto, to provide up to \$3 million in matching funds to augment Miami-Dade County's Purchase of Development Rights Program (PDR), which is funded through the Building Better Communities General Obligation Bond (BBC/GOB).
- Further authorizes the County Mayor or County Mayor's Designee to execute extensions and all provisions of the cooperative agreement in substantially the form attached hereto.

Any expenditures made from the program funded through this agreement will require the approval of the Board.

## **Scope**

The lands affected by the agreement are located in District 9 which is represented by Commissioner Dennis C. Moss; however the PDR Program is countywide in nature, as it contributes to the economic viability, heritage and environmental quality of the region.

## **Fiscal Impact/Funding Source**

Under this Cooperative Agreement, the USDA will provide a 50 percent match up to \$3 million. Miami-Dade County's match will come from BBC/GOB Project 10 funds currently allocated for expenditure in Fiscal Year 2015-16. The Purchase of Development Rights Program funded through the BBC/GOB had an original allocation of \$30 million and an existing balance of \$22,452,090.00. To date, \$7,547,910.00 has been spent, with the County receiving \$3,573,575.00 in grant funds to reimburse the program.

Any purchase of conservation easement(s) under this program require(s) the Board's approval. Acceptance of the grant does not obligate Miami-Dade County to purchase an easement. However, to receive funding an approved purchase must be consummated.

Acceptance of this grant will have no fiscal impact on the current or future County budgets. Acquisition of development rights may have an impact on future County budgets.

**Tracking/Monitor**

Charles LaPradd, Agricultural Manager of the Department of Regulatory and Economic Resources, will monitor this program.

**Delegation of Authority**

There is no additional delegation of authority related to this item.

**Background**

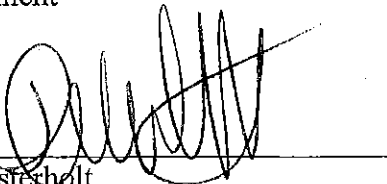
In November, 2004, Miami-Dade County voters approved the Building Better Communities General Obligation Bond Program which included \$30 million to preserve viable farmland through the acquisition of development rights on property suitable for agricultural use. The value of land for agricultural use often is significantly less than the value of land sold for development purposes. For that reason, many agricultural landowners choose to sell their farmland for development, threatening the community's agricultural heritage and quality of life. Without programs to help farmers find alternatives to liquidating businesses, farms will continue to disappear at an increasing rate. The PDR Program allows agricultural landowners to retain their existing agricultural use rights while receiving compensation for the land's development value.

The Purchase of Development Rights Program was adopted by the Board on September 20, 2007 via Resolution No. R-1036-07 as a voluntary process allowing the County to acquire residential development rights associated with a particular piece of property through the purchase of a conservation easements on agricultural land. The Program was revised in 2009 to accommodate compliance with the USDA requirements that made the program eligible to receive matching funds.

In an effort to increase the viability of the PDR Program, staff has applied for USDA grants to increase the funding available to the Program. To date, \$7,547,910.00 of the \$30 million BBC/GOB allocation has been spent to acquire easements on agricultural land. The USDA grants have reimbursed the County \$3,573,573.00 million, making the net expenditure by the BBC/GOB \$3,974,335.00, with development rights having been acquired on 354.5 acres of farmland by the Program. With the funding from this grant to augment the BBC/GOB, it is anticipated that easements will be acquired on an additional 309 acres by December of 2015, bringing the total amount of agricultural land conserved to 663.5 acres. All acquisitions must be approved by the Board.

The attached Cooperative Agreement was received from the USDA on August 13, 2015. The USDA requested that the agreement be executed prior to the end of August. Therefore, pursuant to Section 2-1, Part 1, Rule 5.05 (h) of the Code of Miami-Dade County, Cooperative Agreement No. 5442091501JSM was signed by the County Mayor's Designee on August 24, 2015, and is hereby submitted to the Board for ratification.

Attachment



Jack Osterholt  
Deputy Mayor




# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** October 6, 2015

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 3(B)(5)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 3(B)(5)  
10-6-15

RESOLUTION NO. \_\_\_\_\_

RESOLUTION RATIFYING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE'S ACTION IN APPLYING FOR, RECEIVING AND EXECUTING A FEDERAL AGRICULTURAL LAND EASEMENT GRANT AND COOPERATIVE AGREEMENT FUNDED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE IN AN AMOUNT UP TO \$3 MILLION FOR MIAMI-DADE COUNTY'S PURCHASE OF DEVELOPMENT RIGHTS PROGRAM FUNDED BY PROJECT 10 OF THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE MODIFICATIONS, RENEWALS, TERMINATION AND OTHER PROVISIONS CONTAINED THEREIN

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

**WHEREAS**, Section 2-9 of the Code of Miami-Dade County authorizes the Mayor enter into contracts with governmental entities on behalf of this County and Section 2-10 of the Code requires that contracts authorized under Section 2-9 be ratified by the County Commission; and

**WHEREAS**, USDA Cooperative Agreement 5442091501JSM was signed by the Mayor or Mayor's Designee on August 24, 2015, and is hereby submitted to the Board for ratification,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board:

**Section 1.** Ratifies the County Mayor or County Mayor's designee's action in applying for, receiving and executing a Federal Agricultural Land Easement grant and Cooperative Agreement funded by the United States Department of Agriculture in an amount up to \$3 million for Miami-Dade County's Purchase of Development Rights Program funded by Project 10 of the Building Better Communities General Obligation Bond; and

**Section 2.** Further authorizes the County Mayor or County Mayor's designee's to exercise modifications, renewals, termination and other provisions contained therein, and accept additional funds that may become available, provided that no matching funds are required, upon review and approval by the County Attorney's Office.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman	
Esteban L. Bovo, Jr., Vice Chairman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 6<sup>th</sup> day of October, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

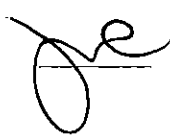
MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

Jorge Martinez-Esteve



**COOPERATIVE AGREEMENT**  
between  
**THE COMMODITY CREDIT CORPORATION**  
and  
**MIAMI-DADE COUNTY**

This Cooperative Agreement is entered into by and between the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation (CCC), and Miami-Dade County (hereinafter whether singular or plural **ENTITY**) for the purchase of agricultural land easements (ALE) under the Agricultural Conservation Easement Program (ACEP). The CCC will utilize the expertise and services of NRCS to perform its duties identified in this Cooperative Agreement. The term "Parties" as used herein refers collectively to NRCS and the **ENTITY**.

**I. AUTHORITY**

NRCS enters this Cooperative Agreement under the authorities of the Commodity Credit Corporation Charter Act, 15 U.S.C. Section 714 et seq., the Agricultural Conservation Easement Program, subtitle H of title XII of the Food Security Act of 1985, 16 U.S.C. Section 3865 et seq., and the Federal Grant and Cooperative Agreement Act of 1977, 31 U.S.C. Section 6304 et seq. This Cooperative Agreement will be administered in accordance with the policies and procedures set forth in the ACEP regulation, 7 CFR Part 1468 and uniform regulation for grants and agreements in 2 CFR Parts 25, 170, 200 and 400.

Miami-Dade County enters this Cooperative Agreement under the authorities of Resolution R-1036-07 and as amended with R-1016-09 adopted by the Miami-Dade County Board of County Commissioners on September 21, 2009.

**II. PURPOSE**

This Cooperative Agreement stipulates the terms and conditions under which NRCS will provide ACEP cost-share assistance to the **ENTITY**. The **ENTITY** has signed the Notice of Grant and Agreement Award acknowledging that the award is subject to the terms and conditions of this Cooperative Agreement and all applicable laws, regulations, and policy.

**THEREFORE**, the Parties agree to enter into this Cooperative Agreement to purchase agricultural land easements from eligible landowners (Grantors) to protect the agricultural use, future viability, and related conservation values of eligible land by limiting nonagricultural uses of that land or to protect grazing uses and related conservation values by restoring and conserving eligible land. The Parties have identified these eligible lands on attachments to this Cooperative Agreement as Parcels, herein referred to collectively as "Parcels" or individually as "Parcel."

**III. OBLIGATION OF FUNDS**

- A. Upon execution of this Cooperative Agreement, NRCS will make cost-share assistance available up to the amount specified on the Notice of Grant and Agreement Award for the acquisition by the **ENTITY** of agricultural land easements on the Parcels listed on attachments to this Cooperative Agreement. To receive this cost-share, the **ENTITY** must close the agricultural land easements and request payment of the NRCS cost-share in accordance with section VII of this Cooperative Agreement.
- B. NRCS may make additional cost-share assistance available in future fiscal years through the execution of mutually acceptable amendments to this Cooperative Agreement that identify the additional cost-share assistance amount, the additional funded Parcels, and the terms and conditions of the funding if different from the terms and conditions identified herein, as provided in section IX.D.

NRCS Representative Initial RM

Entity Representative Initial JO

6.

- C. Upon mutual agreement of the Parties and execution of an amendment, as provided in section IX.D, NRCS may allow substitution of Parcels at any time, provided the Parcels are of comparable conservation value as determined by the NRCS.
- D. This Cooperative Agreement will be for a term of 3 years and not to exceed 5 years. The **ENTITY** must meet each performance schedule deadline in table 1 unless the **ENTITY** requests and NRCS grants an extension in writing prior to the original deadline. The performance schedule deadlines for an individual attachment may be extended for one consecutive 12-month period, as provided in section IX.B. Should the **ENTITY** not meet the performance schedule deadlines, NRCS may release any remaining funds from this Cooperative Agreement.

Table 1 – Performance Schedule

FY of Fund Obligation (Attachment)	Attachment Listing Parcels	Closing Deadline	Payment Request Deadline	Attachment Expiration Deadline
2015	A	March 31, 2017	July 31, 2017	August 31, 2017
2016	B	March 31, 2018	July 31, 2018	August 31, 2018
2017	C	March 31, 2019	July 31, 2019	August 31, 2019

- E. Requests for an extension to the attachment expiration deadline must be submitted by the **ENTITY** to NRCS 30 days in advance of the attachment expiration date.
- F. Nothing in this document obligates NRCS or the **ENTITY** to purchase all or any of the agricultural land easement Parcels listed in the attachments.

#### IV. FEDERAL SHARE

Based on a determination by NRCS that the **ENTITY** has satisfied the terms and conditions of this agreement, NRCS will pay the **ENTITY** a cost-share amount for the purchase of each agricultural land easement acquired by the **ENTITY**. The Federal share will not exceed 50 percent of the fair market value of the agricultural land easement as determined using one of the methods set forth in 7 CFR Section 1468.24.

#### V. COOPERATING ENTITY'S CONTRIBUTION

- A. The **ENTITY** will contribute an amount for the easement purchase at least equivalent to the Federal share. The **ENTITY** may include as part of its contribution a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the eligible landowner if the **ENTITY** contributes its own cash resources in an amount that is at least 50 percent of the amount contributed by NRCS. If the NRCS State Conservationist has waived a portion of the **ENTITY** cash contribution requirement for individual projects of special significance, the Parcels receiving the waiver will be identified in the attachment and the **ENTITY** will provide a copy of the approved waiver at the time payment is requested. The **ENTITY**'s reduced contribution of its own cash resources for projects of special significance will be in an amount at least [SELECT ONE: 25 or 10] percent of the Federal share.
- B. The **ENTITY** must self-certify on NRCS Form 230, "Confirmation of Matching Funds" (exhibit 4), that the **ENTITY**'s contribution of its own cash resources has not come from additional donations, payments, loans or fees made by or charged to the Grantor of the agricultural land easement, immediate family members, or organizations controlled by or funded by the Grantor, either through formal or informal agreements. The **ENTITY** must provide a completed Form 230 to NRCS for a Parcel prior to the closing or an advance of funds for that Parcel.

#### VI. PAYMENTS

NRCS Representative Initial RM

Entity Representative Initial [Signature]

- A. The **ENTITY** must meet the terms and conditions set forth in this agreement and provide NRCS with the items identified in this section and section VII in order to receive the Federal share for a Parcel.
- B. The **ENTITY** may request payment of the Federal share as reimbursement after closing or as an advance payment prior to closing of an agricultural land easement on a Parcel.
- C. To obtain reimbursement or an advance payment of the Federal share, the **ENTITY** will submit the Form SF-270 (Request for Advance/Reimbursement of Funds (exhibit 5)), the SF-270 supplement for noncertified eligible entities (exhibit 6), and the information and documentation required by the supplement to the NRCS contact named on the Notice of Grant and Agreement Award. The **ENTITY** may submit the SF-270 payment request package:
  - 1. 60 days prior to the planned closing date when a payment is to be issued at closing (advance payment);
  - 2. After the agricultural land easement has been recorded and the landowners have been paid (reimbursement); or
  - 3. On a quarterly basis for each quarter that agricultural land easements have been recorded and the landowners have been paid (reimbursement).
- D. NRCS will disburse payment following receipt of a fully complete SF-270 payment request package from the **ENTITY** within 30 days if the Federal share for the individual easement is less than \$250,000 and within 45 days if the Federal share for the individual easement is \$250,000 or greater.
- E. If NRCS provides an advance payment the **ENTITY** will obtain a receipt for the Federal funds from the closing agent and provide it to NRCS prior to closing. The **ENTITY** will ensure the closing agent does not hold the Federal funds in escrow for more than 30 calendar days. If closing does not occur within 30 calendar days of advance payment, the **ENTITY** will ensure the Federal funds and any interest earned on those funds while in escrow are returned to NRCS by the 31st calendar day. The **ENTITY** must ensure that the Federal funds are fully insured while held in escrow.

## VII. RESPONSIBILITIES

### A. ENTITY Responsibilities:

- 1. **ENTITY** will purchase agricultural land easements on eligible land from eligible landowners for the Parcels identified on the attachments to this Cooperative Agreement consistent with the requirements identified in this Agreement. ACEP agricultural land easements are conservation easements conveyed for the purpose of protecting natural resources and the agricultural nature of the land and permit the landowner the right to continue agricultural production and related uses subject to an agricultural land easement plan, as specified in in this part.
- 2. **ENTITY** will ensure that agricultural land easements acquired with funds made available under this Cooperative Agreement and that the deeds satisfy the following requirements:
  - a. Contain the "Minimum Terms for the Protection of Agricultural Use", attached to this Cooperative Agreement as exhibit 7 (ALE Minimum Deed Terms). The **ENTITY** is authorized to use its own terms and conditions in the agricultural land easements so long as the **ENTITY**'s additional language does not alter or defeat the intent, purpose or effective enforcement by the Parties of the ALE minimum deed terms, the Agricultural Conservation Easement Program, or the agricultural land easements acquired under this Cooperative Agreement.
  - b. Address all of the minimum deed requirements identified at 7 CFR Section 1468.25(d);
  - c. Address the disposition of the agricultural land easement and the Federal share in the event the agricultural land easement is ever extinguished, terminated, or condemned in whole or in part.



- d. Are conveyed for the purpose of protecting natural resources and the agricultural nature of the land;
  - e. Run with the land in perpetuity or where State law prohibits a permanent easement, for the maximum duration allowable under State law;
  - f. Protect the agricultural use, future viability, and related conservation value, of the Parcels by limiting nonagricultural uses of that land or protect grazing uses and related conservation values by restoring and conserving eligible land, including grasslands of special environmental significance;
  - g. Provide for the administration, management, and enforcement of the agricultural land easement by the **ENTITY** or its successors and assigns;
  - h. Permit effective enforcement of the conservation purposes of such easements; and
  - i. Subject the Parcel to an agricultural land easement plan that meets the requirements of this Section.
3. The **ENTITY** has the following three options for ensuring that the agricultural land easement contains the ALE Minimum Deed Terms required in paragraph VII.A.2 above:
- a. Attach the ALE Minimum Deed Terms Addendum as an Exhibit to the Agricultural Land Easement Deed. Under this option the **ENTITY** does not need to have the entire agricultural land easement deed reviewed by NRCS, instead NRCS at the State level will verify prior to the **ENTITY** requesting an advance of the Federal share or closing on an agricultural land easement that the **ENTITY** satisfies all of the following requirements:
    - (i) The ALE Minimum Deed Terms addendum is signed by the landowner and the **ENTITY** and will be attached to the agricultural land easement deed at the time of closing and recordation;
    - (ii) The terms of the ALE Minimum Deed Terms addendum are not modified; and
    - (iii) The paragraph below is inserted at the bottom of the agricultural land easement deed:  
*This Agricultural Land Easement is acquired with funds provided, in part, by the Agricultural Conservation Easement Program, (ACEP). The EXHIBIT \_\_\_\_ is attached hereto and incorporated herein by reference and will run with the land in perpetuity [or for the maximum duration allowed under applicable State laws]. As required by 16 U.S.C. Section 3865 et seq. and 7 CFR Part 1468 and as a condition of receiving ACEP funds, all present and future use of the Protected Property identified in EXHIBIT \_\_\_\_ is and will remain subject to the terms and conditions described forthwith in this Addendum entitled Minimum Terms For The Protection Of Agricultural Use in EXHIBIT \_\_\_\_ that is appended to and made a part of this easement deed.*
  - b. Incorporate the ALE Minimum Deed Terms into the Body of the Agricultural Land Easement Deed. Under this option, the **ENTITY** shall ensure the terms as stated in in the ALE Minimum Deed Terms addendum are included in the body of the agricultural land easement deed. The ALE Minimum Deed Terms may be formatted to select options where instructed, conform terms to deed formatting, complete terms with required information, and delete instructions to drafters. Each individual agricultural land easement deed must be reviewed and approved by NRCS National Headquarters prior to the **ENTITY** requesting an advance of the Federal share or closing on an agricultural land easement.
  - c. Entity Agricultural Land Easement Deed Template Approved by NRCS. Upon mutual agreement of the Parties, the Cooperative Agreement may be amended to replace or supplement the attached exhibit 7 with an agricultural land easement deed template to be used for every Parcel listed on attachments to this Cooperative Agreement. The terms and conditions of the agricultural land easement deed template must contain the ALE minimum deed terms as stated and must be

approved by NRCS National Headquarters in advance of the amendment. If the **ENTITY** uses the approved NRCS NHQ-approved deed template without changing any terms or conditions, then the **ENTITY** is not required to obtain NRCS NHQ review and approval of the individual, final agricultural land easement deeds. NRCS at the State level will verify prior to the **ENTITY** requesting an advance of the Federal share or prior to closing on an agricultural land easement that the individual, final agricultural land easement deed is the same as the NHQ-approved template.

4. The **ENTITY** must provide to NRCS a copy of the agricultural land easement deed and all exhibits at least 90 days before the planned closing date.
5. NRCS may require adjustments to the provisions identified in paragraph VII.A.2 above and require the addition of other provisions if NRCS determines that they are necessary to meet the purposes of ACEP and protect the conservation values of the Protected Property.
6. The **ENTITY** will perform necessary legal and administrative actions to ensure proper acquisition and recordation of valid agricultural land easements.
7. The **ENTITY** will pay all costs of agricultural land easement acquisition and will operate and manage each agricultural land easement in accordance with its easement program, this Cooperative Agreement, 16 U.S.C. Section 3865 et seq. and applicable regulations. NRCS will have no responsibility for the costs or management of the agricultural land easements purchased by the **ENTITY** unless NRCS exercises the rights of the United States under an agricultural land easement.
8. NRCS will not be responsible for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the **ENTITY** in connection with its acquisition or management of the agricultural land easements acquired pursuant to this Cooperative Agreement. This includes but is not limited to acts and omissions of the **ENTITY** agents, successors, assigns, employees, contractors, or lessees that result in violations of any laws and regulations that are now or that may in the future become applicable.
9. The **ENTITY** will prepare a baseline documentation report documenting the condition of the Parcel as of the time the easement is acquired and include a completed baseline documentation report in the payment request package submitted to NRCS pursuant to part VI. The baseline documentation report must contain maps, full descriptions and pictures of the Parcel location, existing structures and infrastructure, land use, land cover and its condition, and any special features for which the Parcel is being protected. The **ENTITY** must provide NRCS a draft baseline documentation report at least 90 days before the planned closing date of the agricultural land easement deed.
10. **ENTITY** will ensure completion of an agricultural land easement plan for each Parcel that must:
  - a. Meet the requirements for an agricultural land easement plan specified in 7 CFR Section 1468.26(a);
  - b. Describe the activities that promote the long-term viability of the land to meet the purposes for which the Parcel was selected;
  - c. Identify required or recommended conservation or management practices or activities that address the purposes and resource concerns for which the Parcel was selected;
  - d. Require the management of any grasslands according to a grassland management plan or forest lands that exceed the greater of 40 acres or 20 percent of the Parcel according to a forest management plan;
  - e. Require a conservation plan that meets the requirements of 7 CFR Part 12 for any highly erodible cropland; and
  - f. Require, if specified prior to closing, the conversion of highly erodible cropland to less intensive uses.
11. **ENTITY** will choose one of the options below for completing the agricultural land easement plan by initialing the appropriate box when signing this Cooperative Agreement. (Initial only one option):

NRCS Representative Initial RM

Entity Representative Initial [Signature]

☒ a. **ENTITY** requests that NRCS personnel complete the agricultural land easement plan and **ENTITY** will coordinate with NRCS State office and landowner to ensure that the plan is completed and signed by the landowner prior to closing.

☐ b. **ENTITY** will complete the agricultural land easement plan without the assistance of NRCS personnel and at its own expense. **ENTITY** will ensure the plan meets NRCS standards and specification or other applicable industry standards. **ENTITY** will provide the plan to NRCS at least 90 days prior to the planned closing date and must obtain NRCS approval of the plan prior to closing. **ENTITY** will ensure NRCS has authorized access to the property and landowner if needed to review and approve plans prepared using this option. **ENTITY** will ensure the approved plan is signed by the landowner prior to closing.

12. In acquiring agricultural land easements, the **ENTITY** will ensure that the title to the lands or interests therein will be unencumbered or that outstanding or reserved interests are subordinated to the agricultural land easement. The **ENTITY** and NRCS will review the title commitment to ensure there are no encumbrances that would allow nonagricultural uses of the property that are not acceptable to the **ENTITY** or NRCS. The **ENTITY** shall provide NRCS a copy of the title commitment or title report, a summary of the **ENTITY** title review findings, and any other requested documentation related to title at least 90 days before the planned closing date. Any exceptions to the requirement to remove or subordinate outstanding or reserved interests must be consistent with this Cooperative Agreement, 16 U.S.C. Section 3865, and applicable regulations, and approved by NRCS and documented on the certificate of use and consent.
13. The **ENTITY** will secure proper title evidence and insurance using an owner's American Land Title Association (ALTA) policy with the **ENTITY** listed as the insured on the policy and the policy issued for the full amount of the agricultural land easement purchase price.
14. The **ENTITY** will obtain a determination of the fair market value of the agricultural land easement for each Parcel at its own cost using one of the methods set forth in 7 CFR Section 1468.24. Individual appraisals conducted by a certified general appraiser that conform to the NRCS Appraisal Specifications provided as exhibit 6 and either the Uniform Standards of Professional Appraisals Practices (USPAP) or the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 2000) (USFLA). The effective date of the appraised value must be within 6 months prior to or after the date the Parcel is added to this agreement as a funded Parcel or within 12 months of the closing date of the agricultural land easement on the Parcel. Use of fair market valuation methodologies other than individual USPAP or UASFLA appraisals must be approved by NRCS in writing prior to entering into this Cooperative Agreement.
15. The **ENTITY** will provide the appraiser the NRCS appraisal specifications (exhibit 6) and all of the items required to be provided by the **ENTITY** as identified in the NRCS appraisal specifications. The **ENTITY** must receive a separate appraisal report for each funded Parcel identified on an attachment. Under no circumstances will the **ENTITY** allow the landowner to approve or disapprove of the appraiser selected to prepare the appraisal report. The landowner will not be listed as the client.
16. The **ENTITY** must provide NRCS a completed appraisal report at least 90 days before the planned closing of the agricultural land easement so that NRCS may conduct a technical review of the appraisal. The **ENTITY** will not close the agricultural land easement until the technical reviewer approves the appraisal report. If the **ENTITY** closes the agricultural land easement prior to the approval of the appraisal by the technical reviewer NRCS may not provide the Federal share for the agricultural land easement and may terminate this agreement.
17. The **ENTITY** will not use ACEP funds to acquire an easement on a property in which the **ENTITY**'s employee or board member with decision-making involvement in easement acquisition and management matters has a property interest or whose immediate family member or household member has a property

interest. The **ENTITY** agrees to conduct itself in a manner so as to protect the integrity of agricultural land easements it holds and avoid the appearance of impropriety or actual conflicts of interest in its acquisition and management of agricultural land easements.

18. The **ENTITY** will not at any time, when the **ENTITY** is named as a Grantee on the agricultural land easement, seek to acquire the remaining fee interest in the Parcel. Likewise, if the **ENTITY** enters into an agreement with another entity to manage or monitor the agricultural land easement, and that entity seeks to acquire the underlying fee, the **ENTITY** agrees to immediately terminate such agreement and arrange for an uninterested party to manage or monitor the Parcel.
19. The **ENTITY** will implement easement enforcement procedures when a violation of the agricultural land easement or agricultural land easement plan is identified by or reported to the **ENTITY**. **ENTITY** enforcement procedures resulting from a violation of a conservation plan can only be initiated after all administrative and appeal rights have been exhausted by the landowner in accordance with 7 CFR Part 12 and 7 CFR Part 614.
20. The **ENTITY** will submit a completed Federal Financial Report Standard Form 425 (FFRs) (exhibit 2) to the NRCS State office at least 5 business days prior to the end of each fiscal quarter (December 31, March 31, June 30, and September 30) for each quarter the **ENTITY** closes an agricultural land easement on a Parcel. Reports must be submitted on an accrual accounting basis. Failure to submit complete reports in accordance with the above schedule may result in suspension or termination of the Cooperative Agreement. A final FFR must be submitted no later than 90 days after the end date of the Cooperative Agreement.
21. At a minimum, the **ENTITY** will monitor every agricultural land easement on an annual basis to ensure and document compliance with the easement deed and agricultural land easement plan provisions. Each year the **ENTITY** will submit the annual monitoring report for that year to the appropriate NRCS State office in the format required by NRCS.
22. Nongovernmental organizations must continue to meet the definition of nongovernmental organization in 7 CFR Section 1468.3 for the entire term of this agreement.
23. This paragraph and paragraphs 2, 7, 8, 9, 10, 17, 18, 19, 20, and 21 of this section VII.A will survive the closing of the agricultural land easement and the termination or expiration of this Cooperative Agreement.

#### B. NRCS Responsibilities:

1. The United States, by and through NRCS, will review applications submitted by the **ENTITY**, determine land and landowner eligibility, rank eligible applications, obtain and review a hazardous substance record search, conduct an onsite visit, and authorize Parcels to be added to the attachments to this Cooperative Agreement as tentatively selected for funding or as substitutes.
2. NRCS will provide technical and other services as requested and to the extent resources allow to assist in developing an agricultural land easement plan that meets ACEP requirements and NRCS standards and specifications or other applicable industry standards.
3. NRCS will manage the funds obligated to this Cooperative Agreement and subject to the availability of funds, disburse the appropriate funds to the **ENTITY** in accordance with this Cooperative Agreement.
4. After the required materials have been submitted by the **ENTITY**, prior to closing, NRCS will:
  - a. Review the agricultural land easement deed based on the option selected by the **ENTITY** for incorporating the ALE minimum deed terms, and provide the **ENTITY** with any approval instructions or items requiring resolution,
  - b. Review the title documents submitted by the **ENTITY**, complete a certificate of use and consent, and provide the findings to the **ENTITY** for information or remedy as necessary,

NRCS Representative Initial RmEntity Representative Initial CE

- c. Conduct a technical review of the appraisal submitted by the **ENTITY** and provide the findings to the **ENTITY** for information or resolution as necessary,
  - d. As requested by the **ENTITY**, either develop or review the agricultural land easement plan, and identify any items for resolution to the **ENTITY**,
  - e. Review the draft baseline documentation report provided by the **ENTITY** and notify the **ENTITY** if additional information is needed; and
  - f. Review and provide notice of determination on any waiver requests submitted by the **ENTITY** in accordance with ACEP policy,
  - g. After NRCS reviews are completed and the materials are determined acceptable, provide the **ENTITY** with an "Approval for a Non-Certified Eligible Entity to Proceed with the ALB Acquisition" letter and the NRCS-signed "Confirmation of Matching Funds.
5. If an advance payment is requested, NRCS will also provide a copy the NRCS closing agent requirements to the **ENTITY**.
  6. Prior to NRCS disbursement of funds, the NRCS State Conservationist will verify that the **ENTITY** has provided all documentation, certifications and information required by sections VI and VII.A. NRCS will conduct an internal review the SF-270 payment request package in accordance with NRCS easement acquisition internal controls policy. The NRCS State office will submit a copy of the payment request package for national review and approval for all agricultural land easement payments that meet the national review threshold. Complete payment request packages for national review must be submitted by NRCS at the State level to NRCS NHQ no less than 30 days before the planned closing date.
  7. NRCS will certify payment and disburse funds, for Parcels listed as funded on the attachments to this Cooperative Agreement when the **ENTITY** has requested payment by the payment request deadline and acquired agricultural land easements on the funded Parcels by the closing deadline, consistent with the requirements of the this agreement.
  8. NRCS will review the annual monitoring reports provided by the **ENTITY** to ensure monitoring is conducted annually and reports are sufficient and submitted to NRCS annually for every NRCS-funded conservation easement held by the **ENTITY**.

#### VIII. PUBLIC INFORMATION

- A. The **ENTITY** agrees to acknowledge NRCS cost-share assistance in any public outreach materials or events related to agricultural land easements acquired pursuant to this Cooperative Agreement and to provide draft copies of such information to the NRCS State office for review and comment before public release.
- B. The **ENTITY** agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under section 1244 of the Food Security Act of 1985, 16 U.S.C. Section 3844, and section 1619 of the Food, Conservation, and Energy Act of 2008 (Public Law 110-246), 7 U.S.C. Section 8791.

#### IX. GENERAL PROVISIONS

- A. This Cooperative Agreement constitutes financial assistance and, therefore, all Federal laws, regulations, and Executive orders are applicable, including 2 CFR Parts 25, 170, 200, and 400.
- B. It is the intent of NRCS to fulfill its obligations under this Cooperative Agreement. However, NRCS cannot make commitments in excess of funds authorized by law or made administratively available. If NRCS cannot fulfill its obligations under this Cooperative Agreement because of the unavailability of funds, this Cooperative Agreement will automatically terminate.
- C. No assignment, in whole or in part, will be made of any right or obligation under this Cooperative Agreement without the joint approval of both NRCS and the **ENTITY**. Nothing herein will preclude

NRCS Representative Initial RM

Entity Representative Initial [Signature]

NRCS or the **ENTITY** from entering into other mutually acceptable arrangements or agreements, except as identified in section VII.A.18 of this Cooperative Agreement. Such documents will be in writing, will reference this Cooperative Agreement, and will be maintained as part of the official Cooperative Agreement file.

- D. This Cooperative Agreement may be amended or modified by written amendment signed by the authorized officials of the NRCS and the **ENTITY**.
- E. NRCS may terminate this Cooperative Agreement if NRCS determines that the **ENTITY** has failed to comply with the provisions of this Cooperative Agreement or if it determines that it is in the best interests of the Federal Government to terminate. In the event that this Cooperative Agreement is terminated for any reason, the financial obligations of the Parties will be as set forth in 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- F. If any recipient of Federal funds under this Cooperative Agreement fails to comply with the terms and conditions of this Cooperative Agreement, NRCS reserves the right to wholly or partially recapture funds provided in accordance with applicable regulations.

## X. ATTACHMENTS and EXHIBITS

Attachment 1 - NRCS-ADS-093, Notice of Grant and Agreement Award

Attachment A – List of Agricultural Land Easement Parcels funded by NRCS

Exhibit 1 – NRCS General Terms and Conditions – Grants and Cooperative Agreements

Exhibit 2 – Standard Form 425 (SF-425), “Federal Financial Report”

Exhibit 3 – Representation Regarding Felony Convictions and Tax Delinquent Status for Corporate Applicants (AD-3031)

Exhibit 4 - NRCS Form 230, "Confirmation of Matching Funds"

Exhibit 5 - SF-270, "Request for Advance/Reimbursement of Funds"

Exhibit 6 - SF-270 Supplement for Noncertified Eligible Entities

Exhibit 7 - Minimum Terms for the Protection of Agricultural Use (ALE Minimum Deed Terms addendum)

PROGRAM: ACEP Funds Authority		Agency Guthrie	Date 7/10/95
Name/Title	Date:		
FROM: ACEP Funds Available			
<del>From Comeda, B.D.</del>			
Name/Title	Date		
Amount: \$ 2,706, 287.50			
Appt. Code: 205-51-1125A, 205-51-1125B, 205-51-1125C			

NRCS Representative Initial *RM*

Entity Representative Initial

NOTICE OF GRANT AND AGREEMENT AWARD			
1. Award Identifying Number 5442091501JSM	2. Amendment No.	3. Award/Project Period Signature-8/31/2017	4. Type of Award Instrument Cooperative Agreement
5. Natural Resources Conservation Service  Florida NRCS State Office 2614 NW 43 <sup>rd</sup> St. Gainesville, FL 32606		6. Recipient Organization (Name and Address)  Miami-Dade County 111 NW 1 St., 29 <sup>th</sup> Floor Miami, FL 33128  DUNS: 004148292 EIN: 59-6000573	
7. NRCS Program Contact: Roney Gutierrez 352-338-9502	8. NRCS Administrative Contact: Nina Bhattacharyya 352-338-9554	9. Recipient Contact: Charles LaPradd 305-971-5091	10. Recipient Administrative Contact: Charles LaPradd 305-971-5091
11. CFDA Number 10.931	12. Authority Agricultural Conservation Easement Program, Subtitle H of Title XII of the Food Security Act of 1985, 16 U.S.C. Section 3865 et seq.		
13. Project Purpose: To acquire ACEP Agricultural Land Easements.			
14. Entity Type: <input type="checkbox"/> Profit <input type="checkbox"/> Nonprofit <input type="checkbox"/> Higher Education <input type="checkbox"/> Federal <input checked="" type="checkbox"/> State/Local <input type="checkbox"/> Tribal Indian/Native American <input type="checkbox"/> Landowner <input type="checkbox"/> Other			
15. Approved Budget Category Breakdown: Attach SF-424A			
16. Original Budget  Total Federal Approved Budget: \$2,706,287.50 Total Non-Federal Approved Budget: \$2,706,287.50 Total Approved Budget: \$5,412,575.00		17. Amended Budget (if applicable)  Total Federal Amended Budget: \$ Total Non-Federal Amended Budget: \$ Total Amended Budget: \$	
This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.			
ACCEPTED BY			
Name and Title of Authorized Government Representative RUSSELL MORGAN, STATE CONSERVATIONIST		Signature 	Date 7-9-15
Name and Title of Authorized Recipient Representative CARLOS GIMENEZ, MAYOR OR DESIGNEE		Signature 	Date 8/24/15

#### NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotope, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

#### PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

BUDGET INFORMATION - Non-Construction Programs

View Burden Statement

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. ACES-ALE	10.931	\$	\$	\$ 2,706,287.50	\$ 2,706,287.50	\$ 5,412,575.00
2.						
3.						
4.						
5. Totals		\$	\$	\$ 2,706,287.50	\$ 2,706,287.50	\$ 5,412,575.00



# SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1) ACRF-ALE	(2)	(3)	(4)	
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a-6h)					\$
j. Indirect Charges					\$
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$

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SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8. ACEP-AIE	\$ 2,706,287.50	\$	\$	\$	2,706,287.50
9.					
10.					
11.					
12. TOTAL (sum of lines 8-11)	\$ 2,706,287.50	\$	\$	\$	2,706,287.50

SECTION D - FORECASTED CASH NEEDS				
Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$
14. Non-Federal	\$			
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16. ACEP-AIE	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

Agricultural Conservation Easement Program – Agricultural Land Easement (ACER-ALE)  
Attachment A

Award Identifying Number: 5442091501JSM  
NEST Agreement Number: 5442091501JSM

Attachment A - Fiscal Year (FY) 2015

List of Agricultural Land Easement Parcels Funded by NRCS With Fiscal Year 2015 Funds and Identified Substitute Parcels.

NRCS has made cost-share assistance available up to the amount specified on the NRCS-ADS-093, "Notice of Grant and Agreement Award," for parcels on this attachment that have been selected for funding. Parcels listed and not currently selected for funding and parcels identified at the time of the proposed substitution may be substituted for funded parcels that are cancelled upon mutual agreement of the Parties and removed from this attachment.

Funding obligated under this attachment will expire on August 31, 2017, unless a request for extension for this funding year has been approved by the State Conservationist and the agreement is amended with a new attachment expiration date of August 31, 2018, for this attachment A.<sup>1</sup>

Landowner's Name(s)	Total Acres	Estimated Agricultural Land Easement Value	Estimated Federal Contribution	NEST Parcel ID Number	Selected for Funding (check)	Received a Cash Contribution Waiver
F&T Farms, Inc.	129.24	\$2,261,700	\$1,130,850	5442091501JSN	X	<input type="checkbox"/>
V&J Real Estate 1, LLC	40	\$700,000	\$350,000	5442091501JSW	X	<input type="checkbox"/>
F&T Farms, Inc.	60.59	\$1,060,150	\$530,075	5442091501JSP	X	<input type="checkbox"/>
O&G Real Estate, LLC	79.47	\$1,390,725	\$695,362.50	5442091501JST	X	<input type="checkbox"/>
Leonard Talarico Revocable Trust	20.2	\$353,500	\$176,750	5442091501JSS	<input type="checkbox"/>	<input type="checkbox"/>
Orazio Finocchiaro	40.26	\$704,550	\$352,275	5442091501JSV	<input type="checkbox"/>	<input type="checkbox"/>
F&T Farms, Inc.	40.48	\$708,400	\$354,200	5442091501JSR	<input type="checkbox"/>	<input type="checkbox"/>
O&G Real Estate, LLC and Kirby Johnson	40.48	\$708,400	\$354,200	5442091501K4L	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals</b>	<b>309.3</b>	<b>\$ 5,412,575</b>	<b>\$2,706,287.50</b>			

<sup>1</sup> Note: the original expiration date entered will be August 31 of the year 2 years following the fiscal year the attachment is added to the agreement. The extension date entered will be August 31 of the following year. Therefore, if an attachment is approved by NRCS in FY 2015, the expiration date would be August 31, 2017, and the extension date would be August 31, 2018.

NRCS Representative Initial \_\_\_\_\_

Entity Representative Initial \_\_\_\_\_

Revised July 2015

**NATURAL RESOURCES CONSERVATION SERVICE  
U.S. DEPARTMENT OF AGRICULTURE**

**GENERAL TERMS AND CONDITIONS  
GRANTS AND COOPERATIVE AGREEMENTS**

**I. APPLICABLE REGULATIONS**

- a. The recipient, and recipients of any subawards under this award, agree to comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
  - (1) 2 CFR Part 25, "Universal Identifier and System of Award Management"
  - (2) 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information"
  - (3) 2 CFR Part 180, "OMB Guidelines To Agencies On Governmentwide Debarment And Suspension (Nonprocurement)"
  - (4) 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)"
  - (5) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards"
- b. The recipient, and recipients of any subawards under this award, assure and certify that they have and/or will comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
  - (1) 2 CFR Part 175, "Award Term for Trafficking in Persons"
  - (2) 2 CFR Part 417, "Nonprocurement Debarment and Suspension"
  - (3) 2 CFR Part 418, "New Restrictions on Lobbying"
  - (4) 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)"
- c. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and to the extent applicable to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference (the full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>).
  - (1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards"
  - (2) 48 CFR Part 31, "Contract Cost Principles and Procedures"

**II. UNALLOWABLE COSTS**

The following costs are not allowed:

- a. Costs above the amount authorized for the project
- b. Costs incurred after the expiration of the award including any no-cost extensions of time
- c. Costs that lie outside the scope of the approved project and any amendments thereto
- d. Compensation for injuries to persons or damage to property arising from project activities

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, "Subpart B - Cost Principles", or direct specific inquiries to the NRCS administrative contact identified in the award.

### III. CONFIDENTIALITY

- a. Activities performed under this award may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS.
- b. The recipient's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The recipient's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).
- c. The recipient agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), 7 U.S.C. 8791.

### IV. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the recipient is also bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles.

- a. Purpose or Deliverables.—When it is necessary for the recipient to modify the purpose or deliverables, the recipient must submit a written request and justification for the change along with the revised purpose or deliverables of the award to the NRCS administrative contact. The request should contain the following:
  1. Grant or agreement number
  2. Narrative explaining the requested modification to the project purpose or deliverables
  3. A description of the revised purpose or deliverables
  4. Signatures of the authorized representative, project director, or both
- b. Subcontractual Arrangement. — The recipient must submit a justification for the proposed subcontractual arrangements, a statement of work to be performed, and a detailed budget for the subcontract to the NRCS administrative contact. Subcontractual arrangements disclosed in the application do not require additional postaward approval.
- c. Absence or Change in Project Leadership.—When a project director or the person responsible for the direction or management of the project—
  1. Relinquishes active direction of the project for more than 3 consecutive months or has a 25 percent or more reduction in time devoted to the project, the grantee must notify the NRCS administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications and the signature of the replacement, signifying his or her willingness to serve on the project.
  2. Severs his or her affiliation with the grantee, the grantee's options include—
    - i. Replacing the project director. The grantee must request written approval of the replacement from the NRCS administrative contact and must include

the qualifications and the signature of the replacement signifying his or her willingness to serve on the project.

- ii. Subcontracting to the former project director's new organization. The grantee must request approval from the administrative contact to replace the project manager and retain the award, and to subcontract to the former project director's new organization certain portions of the project to be completed by the former project director.
  - iii. Relinquishing the award. The grantee must submit to the NRCS administrative contact a signed letter by the grantee and the project director that indicates that the grantee is relinquishing the award. The letter must include the date the project director is leaving and a summary of progress to date. A final Standard Form (SF) 425 reflecting the total amount of funds spent by the recipient must be attached to the letter.
3. Transfers the award to his or her new organization, the authorized organization's representative at the new organization must submit the following to the NRCS administrative contact as soon as the transfer date is firm and the amount of funds to be transferred is known:
- i. The forms and certifications included in the application package
  - ii. A project summary and work statement covering the work to be completed under the project (deliverables and objectives must be the same as those outlined in the approved proposal)
  - iii. An updated qualifications statement for the project director showing his or her new organizational affiliation
  - iv. Any cost-sharing requirements under the original award transfer to the new institution; therefore, cost-sharing information must be included in the proposal from the new organization

**Note:** The transfer of an award from one organization to another can take up to 90 days to accomplish, which may result in a delay in the project director resuming the project at the new organization.

- d. Budget Revisions.—Budget revisions will be in accordance with 2 CFR Part 200.308.
- e. No-Cost Extensions of Time. —When a no-cost extension of time is required, the recipient must submit a written request to the NRCS administrative contact no later than 30 days before the expiration date of the award. The request must contain the following:
- The length of additional time required to complete the project and a justification for the extension
  - A summary of progress to date
  - An estimate of funds expected to remain unobligated on the scheduled expiration date
  - A projected timetable to complete the portions of the project for which the extension is being requested
  - Signature of the grantee and the project director
  - A status of cost sharing to date (if applicable)

**Note:** An extension will not exceed 12 months. Only in exceptional cases will more than one extension be granted. Requests for no-cost extensions received after the expiration of the award will not be granted.

## V. PAYMENTS

- a. Payment by NRCS to the entity will be made monthly or quarterly (whichever is mutually agreed upon by both parties) on a reimbursable or advanced basis upon completion of work outlined herein. Payment will be executed upon the submission of a properly executed form SF-270. The SF-270 must cite the agreement number, remittance address, and billing period. The SF-270 must be sent to the NRCS administrative contact at the address identified in block 8 of the Notice of Grant/Agreement Award.
- b. Unless otherwise specified in the award, the recipient must receive payments through electronic funds transfers.
- c. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant to procedures contained in the Federal administrative provisions and 31 CFR Part 205.
- d. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the grantee makes advance payments to contractors, the grantee must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Payment requests from the grantee's contractors will not be sent to NRCS for review or approval.
- e. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subcontract award documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient.

## VI. FINANCIAL REPORTING

- a. Recipients must submit a Federal Financial Report (FFR), SF 425 and 425A, in accordance with the following schedule (recipients may download the applicable form at <http://www.forms.gov>):

<u>Quarterly Schedule</u>	<u>Report Due Date</u>
October 1 to December 31	January 31
January 1 to March 31	April 30
April 1 to June 30	July 30
July 1 to September 30	October 30

Reports must be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award.

- b. A final Report must be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date must be the end date of the project or agreement period. The reports should be submitted to the NRCS administrative contact identified in award notifications.

## VII. PERFORMANCE MONITORING AND REPORTING

- a. The recipient is responsible for monitoring day-to-day performance and for reporting to NRCS. If the project involves subcontractual arrangements, the recipient is also responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.
- b. Every 6 months the recipient must submit a written progress report. Each report must cover—
  - 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.
  - 2. The reasons why goals and objectives were not met, if appropriate.
  - 3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.
- c. The recipient must submit a final performance report within 90 days after completion of project.

## VIII. SPECIAL PROVISIONS

- a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.
- b. Employees of NRCS will participate in efforts under this agreement solely as representatives of the United States. To this end, they may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in efforts regarding such parties until approved by the agency.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

## IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

- a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
- b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Acquisitions Division  
Grants and Agreements Team  
1400 Independence Avenue, SW,  
Room 6823 South Building  
Washington, DC 20250



- c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.
- d. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:
  - "This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number [recipient should enter the applicable award number here]."

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

- "Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture."

The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award.

#### X. COST-SHARING REQUIREMENTS

- a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award, and must come from non-Federal sources unless otherwise stated in the applicable program announcement.
- b. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must—
  - 1. Immediately notify the NRCS administrative contact of the situation.
  - 2. Specify the steps it plans to take to secure replacement cost sharing.
  - 3. Indicate the plans to either continue or phase out the project in the absence of cost sharing.
- c. If NRCS agrees to the organization's proposed plans, the recipient will be notified accordingly. If the organization's plans are not acceptable to NRCS, the award may be subject to termination. NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis.
- d. Failure by the recipient to notify NRCS in accordance with paragraph (b) above may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the award, and may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.
- e. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well records of costs to be paid by NRCS. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

#### **XI. PROGRAM INCOME**

Income derived from patents, inventions, or copyrights will be disposed of in accordance with the recipient's own policies. General program income earned under this award during the period of NRCS support must be added to total project funds and used to further the purpose and scope of this award or the legislation under which this award is made.

#### **XII. NONEXPENDABLE EQUIPMENT**

Recipients purchasing equipment or products with funds provided under this award are encouraged to use such funds to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by NRCS of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than \$5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to NRCS. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

#### **XIII. LIMIT OF FEDERAL LIABILITY**

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, in the event that an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

#### **XIV. MODIFICATIONS AND TERMINATIONS**

NRCS may amend or modify the award through an exchange of correspondence between authorized officials of the recipient and NRCS. The award is subject to termination if NRCS determines that the recipient has failed to comply with the terms and conditions of the award. In the event that the award is terminated, the financial obligations of the parties will be those set forth in 2 CFR Part 200.339.

#### **XV. AWARD CLOSEOUT**

Award closeout is the process by which NRCS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed.

## FEDERAL FINANCIAL REPORT

(Follow form instructions)

1. Federal Agency and Organizational Element to Which Report is Submitted  USDA-NRCS		2. Federal Grant or Other Identifying Number Assigned by Federal Agency (To report multiple grants, use FFR Attachment)		Page 1	of 1
3. Recipient Organization (Name and complete address including Zip code)					
4a. DUNS Number	4b. EIN	5. Recipient Account Number or Identifying Number (To report multiple grants, use FFR Attachment)	6. Report Type <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi-Annual <input type="checkbox"/> Annual <input type="checkbox"/> Final	7. Basis of Accounting <input type="checkbox"/> Cash <input type="checkbox"/> Accrual	
8. Project/Grant Period From: (Month, Day, Year)		To: (Month, Day, Year)	9. Reporting Period End Date (Month, Day, Year)		
10. Transactions			Cumulative		
(Use lines a-c for single or multiple grant reporting)					
Federal Cash (To report multiple grants, also use FFR Attachment):					
a. Cash Receipts					
b. Cash Disbursements					
c. Cash on Hand (line a minus b)					
(Use lines d-o for single grant reporting)					
Federal Expenditures and Unobligated Balance:					
d. Total Federal funds authorized					
e. Federal share of expenditures					
f. Federal share of unliquidated obligations					
g. Total Federal share (sum of lines e and f)					
h. Unobligated balance of Federal funds (line d minus g)					
Recipient Share:					
i. Total recipient share required					
j. Recipient share of expenditures					
k. Remaining recipient share to be provided (line i minus j)					
Program Income:					
l. Total Federal program income earned					
m. Program income expended in accordance with the deduction alternative					
n. Program income expended in accordance with the addition alternative					
o. Unexpended program income (line l minus line m or line n)					
11. Indirect Expense	a. Type	b. Rate	c. Period From	Period To	d. Base
					e. Amount Charged
					f. Federal Share
g. Totals:					
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation:					
13. Certification: By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and intent set forth in the award documents. I am aware that any false, fictitious, or fraudulent information may subject me to criminal, civil, or administrative penalties, (U.S. Code, Title 18, Section 1001)					
a. Typed or Printed Name and Title of Authorized Certifying Official			o. Telephone (Area code, number and extension)		
			d. Email address		
b. Signature of Authorized Certifying Official			e. Date Report Submitted (Month, Day, Year)		
14. Agency use only:					

Standard Form 426 - Revised 6/26/2010  
OMB Approval Number: 0348-0081  
Expiration Date: 10/31/2011

## Paperwork Burden Statement

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 0348-0081. Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0081), Washington, DC 20503.

This form is available electronically.

Form Approved – OMB No. 0505-0025

Expiration Date: 12/31/2012

AD-3031

**U.S. Department of Agriculture**  
**ASSURANCE REGARDING FELONY CONVICTION**  
**OR TAX DELINQUENT STATUS FOR CORPORATE APPLICANTS**

**NOTE:** The following statement is made in accordance with the Privacy Act of 1974 (5 USC 55a -- as amended). The authority for requesting the following information for USDA agencies and offices is in sections 738 and 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, P.L. 112-55, and subsequent similar provisions. The information will be used to document compliance with appropriations restrictions.

According to the Paperwork Reduction Act of 1996 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number of this information collection is 0505-0025. The time required to complete this information collection is estimated to average 3 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.

This award is subject to the provisions contained in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, P.L. 112-55, Division A, Sections 738 and 739 for USDA agencies and offices (except Forest Service) regarding corporate felony convictions and corporate federal tax delinquencies.

Accordingly, by accepting this award the recipient acknowledges that it: (1) does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal or State law within 24 months preceding the award, unless a suspending and debarring official of the United States Department of Agriculture has considered suspension or debarment of the recipient corporation, or such officer or agent, based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of sections, 738 and 739.

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APPLICANT'S SIGNATURE (BY)

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TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A  
REPRESENTATIVE CAPACITY

---

BUSINESS NAME

---

DATE SIGNED (MM-DD-YYYY)

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

U.S. DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICENRCS-CPA-230C  
02/2015Statement to Confirm Matching Funds  
Agricultural Conservation Easement Program -  
Agricultural Land Easement (ACEP-ALE)  
For General ACEP-ALE Enrollments

The following information is required prior to the dispersal of the Federal share for the acquisition of a general ACEP-ALE. The purpose of this form is to identify and confirm matching fund sources.

ACEP-ALE Parcel Name \_\_\_\_\_

NEST Agreement #: \_\_\_\_\_ NEST Parcel #: \_\_\_\_\_

State \_\_\_\_\_ County, Parish, or Borough \_\_\_\_\_

A. Appraised fair market value of the agricultural land easement	
B. Grantor (Landowner) donation (the portion of A that is given to the eligible entity by the Grantor as a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986)). Landowner shall not donate any part of C, D, or E back to the eligible entity.	
C. Agricultural land easement purchase price	
D. Eligible entity cash contribution paid to the Grantor from the eligible entity's cash resources* (D must be at least 50% of E unless an eligible entity cash contribution waiver is approved by NRCS. Eligible entity must attach cash contribution waiver approval.)	
E. Federal share paid to the Grantor (Landowner) through eligible entity** (E must not exceed 50% of A)	
<p>*Administrative and planning costs are not counted as part of the entity cash contribution or as part of the purchase price.</p> <p>** ACEP funds provided to the eligible entity must not be used for administrative costs such as appraisal, survey, title insurance, legal fees, easement monitoring, or other related transaction costs or planning costs, such as baseline documentation or agricultural land easement plan development.</p>	

Administrative Costs Paid By: (enter amount for each item)	Eligible Entity	Landowner
Appraisal (by certified appraiser to USPAP/UASFLA standards)	\$	\$
Survey	\$	\$
Closing Costs (legal fees)	\$	\$
Title Insurance	\$	\$
Easement Monitoring (Landowner Cost limited to lesser of 2% or \$20,000 of A)	\$	\$
Total	\$	\$

U.S. DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICENRCS-CPA-230C  
02/2015**Certifications: ACEP-ALE Statement to Confirm Matching Funds****GRANTOR (Landowner)**

I certify that the information on this supporting form for the acquisition of an ACEP-ALE is true, correct, and complete. I have been informed that the dollar amount listed above is the appraised fair market value of the agricultural land, and that I have agreed to grant an agricultural land easement on my property for \$\_\_\_\_\_ (enter purchase price). I understand that false certification has serious consequences and will result in ineligibility for the ACEP.

Grantor (Landowner) Name(s) (please print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Grantor (Landowner) Name(s) (please print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**GRANTEE (Eligible Entity)**

I certify that the information on this form for the acquisition of an ACEP-ALE is true, correct, and complete. I further certify that the eligible entity's cash contribution of the matching funds listed above have not come from additional donations, payments, loans, or fees made by or charged to the above-mentioned Grantor, immediate family members, or organizations controlled or funded by the Grantor, either through formal or informal agreements. I understand that false certification has serious consequences and will result in ineligibility of the entity for the ACEP.

Eligible Entity Name (please print): \_\_\_\_\_

Authorized Official (please print): \_\_\_\_\_

Signature by Authorized Official: \_\_\_\_\_ Date: \_\_\_\_\_

**NRCS**

I certify that I have met in person with the Grantor and confirmed all of the information listed above true, correct, and complete. The Grantor has certified that the eligible entity's cash contribution of the matching funds listed will not come from additional donations, payments, loans, or fees made by or charged to the above-mentioned Grantor, immediate family members, or organizations controlled or funded by the Grantor, either through formal or informal agreements. The Grantor understands that the purchase price is the amount he or she should receive at closing for the purchase of the agricultural land easement. The Grantor further understands that the ACEP-ALE does not require a landowner donation or contributions to stewardship or acquisition funds.

NRCS Representative (please print):

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature by NRCS Representative: \_\_\_\_\_ Date: \_\_\_\_\_

<b>REQUEST FOR ADVANCE OR REIMBURSEMENT</b>  <i>(See instructions on back)</i>		OMB APPROVAL NO. <div style="text-align: center;">0348-0004</div>		PAGE _____ OF _____ PAGES	
		1. TYPE OF PAYMENT REQUESTED a. "X" one or both boxes <input type="checkbox"/> ADVANCE <input type="checkbox"/> REIMBURSEMENT b. "X" the applicable box <input type="checkbox"/> FINAL <input type="checkbox"/> PARTIAL		2. BASIS OF REQUEST <input type="checkbox"/> CASH <input type="checkbox"/> ACCRUAL	
3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED		4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY		5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST	
6. EMPLOYER IDENTIFICATION NUMBER	7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER	8. PERIOD COVERED BY THIS REQUEST FROM: (month, day, year) _____ TO: (month, day, year) _____			
9. RECIPIENT ORGANIZATION  Name: _____  Number and Street: _____  City, State and ZIP Code: _____		10. PAYEE (Where check is to be sent if different than item 9)  Name: _____  Number and Street: _____  City, State and ZIP Code: _____			
11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED					
PROGRAMS/FUNCTIONS/ACTIVITIES		(a)	(b)	(c)	TOTAL
a. Total program outlays to date (As of date)		\$	\$	\$	\$
b. Less: Cumulative program income					
c. Net program outlays (Line a minus line b)					
d. Estimated net cash outlays for advance period					
e. Total (Sum of lines c & d)					
f. Non-Federal share of amount on line e					
g. Federal share of amount on line e					
h. Federal payments previously requested					
i. Federal share now requested (Line g minus line h)					
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month				
	2nd month				
	3rd month				
12. ALTERNATE COMPUTATION FOR ADVANCES ONLY					
a. Estimated Federal cash outlays that will be made during period covered by the advance					\$
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period					
c. Amount requested (Line a minus line b)					\$

AUTHORIZED FOR LOCAL REPRODUCTION

(Continued on Reverse)

STANDARD FORM 270 (Rev. 7-87)  
Prescribed by OMB Circulars A-102 and A-110

## 13. CERTIFICATION

I certify that to the best of my knowledge and belief the data on the reverse are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

SIGNATURE OR AUTHORIZED CERTIFYING OFFICIAL

DATE REQUEST  
SUBMITTED

TYPED OR PRINTED NAME AND TITLE

TELEPHONE (AREA  
CODE, NUMBER,  
EXTENSION)

This space for agency use

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0004), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

## INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11a, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

- | Item  | Entry  | Item | Entry   |
|---|--|------|---|
| 2   | Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.  |      | as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.  |
| 4   | Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement. | 11a  | Enter in "as of date," the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees. |
| 6   | Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.   | 11b  | Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.  |
| 7   | This space is reserved for an account number or other identifying number that may be assigned by the recipient.  | 11d  | Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.  |
| 8   | Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.  | 13   | Complete the certification before submitting this request.  |
| <p>Note: The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.</p> |  |      |   |
| 11  | The purpose of the vertical columns (a), (b), and (c) is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use   |      |   |



**Agricultural Conservation Easement Program – Agricultural Land Easement (ACEP-ALE)****Supplement to the SF-270 for Noncertified Eligible Entities**

*This supplement and all documents required by this supplement must be completed and attached to the SF-270 for every agricultural land easement for which an advance or reimbursement of ACEP-ALE cost-share assistance is requested by a noncertified eligible entity. The complete SF-270, SF-270 supplement and required documentation must be reviewed and approved by NRCS before NRCS may disburse payment.*

Eligible Entity Name:	
NEST Cooperative Agreement Number:	
NEST Parcel ID Number:	
Eligible Entity Tax Identification Number (TIN):	
Eligible Entity DUNS:	
Landowner(s) Name (continue on additional pages and attach if needed):	
Landowner(s) Address:	
Landowner(s) Telephone Number:	
Total Federal Cost-Share Requested from NRCS for the Agricultural Land Easement:	Acres Protected by the Agricultural Land Easement:

*Attach the following to SF-270:*

1. A copy of the NRCS approved agricultural land easement deed with all exhibits; if a reimbursement is requested then the deed must be a copy of the recorded document and include a recording receipt
2. NRCS Form 230, "Confirmation of Matching Funds," for each easement
3. A copy of the agricultural land easement plan signed by the landowner
4. A copy of the baseline documentation report signed by the noncertified eligible entity and the landowner
5. If applicable, a copy of the NRCS approval letter for the waiver of the eligible entity cash contribution requirement
6. For a reimbursement, a copy of the American Land Title Association (ALTA) title insurance policy
7. For an advance:
  - a. A complete and signed copy of the "NRCS Closing Agent Requirements"
  - b. A copy of the American Land Title Association (ALTA) title commitment
  - c. A signed settlement statement prepared by the closing agent
  - d. Evidence of liability insurance coverage in an amount at least equal to the Federal funds provided as cost share for the purchase of the agricultural land easement, providing for reimbursement to NRCS for any loss of Federal funds caused by fraud or dishonest or failure by the attorneys, closing agents, or closing agents employees to comply with the written closing instructions

The undersigned noncertified eligible entity certifies that they have participated in the Agricultural Land Easement component of the Agricultural Conservation Easement Program according to all program requirements and the terms and conditions of the above referenced agreement. The undersigned eligible entity will hereafter be referred to as the "participant." The participant certifies that they have received NRCS approval of the appraisal or easement value and that they are acquiring or have acquired an agricultural land easement on land with clear title using a conservation easement deed that contains all of the NRCS required ACEP-ALE Minimum Deed Terms.

U. S. DEPARTMENT OF AGRICULTURE  
Natural Resources Conservation Service

NRCS 270 Supplement for Non-Certified Eligible Entities  
2/2015

The participant certifies that highly erodible land conservation/wetland conservation, adjusted gross income certifications, and member information for all landowners are on file with the appropriate USDA service center agency.

The participant certifies that they are currently registered in the System for Award Management (SAM) and are providing a valid DUNS number on this request. NRCS will not disburse funds for an agricultural land easement until all applicable DUNS and SAM requirements have been met.

It is the responsibility of the participant to provide accurate information to support all items addressed in this SF-270 supplement to the request for payment. False certifications are subject to criminal and civil fraud statutes.

Signature of Authorized Entity Representative;	Date;
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#### Privacy Act Notification

*The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 552a, as amended). The authority for requesting the information identified on this form are 7 CFR Part 1468, the Commodity Credit Corporation Charter Act, 15 U.S.C. Section 714 et seq., and the Agricultural Act of 2014 (Public Law 113-79). The information will be used to enable Natural Resources Conservation Service to certify payment of cost share assistance through the Agricultural Conservation Easement Program. The information collected on this form may be disclosed to other Federal, State, local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable routine uses identified in the System of Records Notice for USDA/NRCS-1, Landowner, Operator, Producer, Cooperator, or Participant Files, and USDA/FCIC-10, Policyholder. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of producer ineligibility to participate in the Agricultural Conservation Easement Program.*

#### Paperwork Reduction Act Exemption

*This information collection for the Agricultural Conservation Easement Program is exempt from the Paperwork Reduction Act (PRA) as specified in Section 1246 of the Food Security Act of 1985, as amended by Title II of the Agricultural Act of 2014. For those NRCS programs that are not exempt from PRA, NRCS may not conduct or sponsor, and a person is not required to respond to a collection of information unless this collection of information has a valid OMB control number. RETURN THIS COMPLETED FORM TO AN NRCS REPRESENTATIVE AT THE APPLICABLE USDA SERVICE CENTER.*

#### Nondiscrimination Statement

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish). If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, SW., Washington, DC 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.*

U.S. Department of Agriculture  
Natural Resources Conservation Service

AGRICULTURAL CONSERVATION EASEMENT PROGRAM  
AGRICULTURAL LAND EASEMENT  
MINIMUM DEED TERMS FOR THE PROTECTION OF AGRICULTURAL USE

1) When these terms are appended as an exhibit to the Agricultural Land Easement deed, as opposed to being inserted directly into an Agricultural Land Easement deed, this paragraph will be inserted at the bottom of the ACEP funded Agricultural Land Easement deed:

This Agricultural Land Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (ACEP). The EXHIBIT \_\_\_\_\_ is attached hereto and incorporated herein by reference and will run with the land in perpetuity [or for the maximum duration allowed under applicable State laws]. As required by 16 U.S.C. Section 3865 et seq. and 7 CFR Part 1468 et seq. and as a condition of receiving ACEP funds, all present and future use of the Protected Property identified in EXHIBIT \_\_\_\_\_ (legal description or survey) is and will remain subject to the terms and conditions described forthwith in this Addendum entitled Minimum Deed Terms For The Protection Of Agricultural Use in EXHIBIT \_\_\_\_\_ that is appended to and made a part of this easement deed.

2) A fully executed copy of the Exhibit below must be attached to the ACEP funded Agricultural Land Easement Deed at the time of closing and recordation or, with NRCS approval, the terms below must be incorporated into the body of the Eligible Entity's Agricultural Land Easement deed, substituting where desired, the defined term for the Parcel instead of "Protected Property":

EXHIBIT \_\_\_\_\_

MINIMUM TERMS FOR AGRICULTURAL LAND EASEMENTS

The Agricultural Conservation Easement Program, 16 U.S.C Section 3865 et seq., facilitated and provided funding for the purchase of an Agricultural Land Easement (ALE) on real property described in Exhibit \_\_\_\_\_, hereafter referred to as "the Protected Property", for the purpose of [SELECT ONE: *protecting the agricultural use and future viability, and related conservation values, by limiting nonagricultural uses* OR *protecting grazing uses and related conservation values by restoring and conserving*] the Protected Property.

The [LANDOWNER NAMES] (collectively Grantor), the [ELIGIBLE ENTITY NAMES] (collectively Grantee), and the United States of America (the United States), acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC) (jointly referred to as the "Parties") acknowledge that the ALE is acquired by the Grantee to [SELECT ONE: *protect the agricultural use and future viability, and related conservation values, by limiting nonagricultural uses* OR *protect grazing uses and related conservation values by restoring and conserving*] the Protected Property. Baseline conditions of the Protected Property are set forth in a Baseline Documentation Report, a copy of which is [SELECT ONE: *appended to this*

U.S. Department of Agriculture  
Natural Resources Conservation Service

*easement deed OR maintained in the files of the Grantee*]. Notwithstanding any other provision of the ALE, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Section I and II. If the terms and conditions in Section I and II are inconsistent with terms and conditions in other sections of the ALE, Section I and II will control. If other sections of the of the ALE have terms and conditions that are consistent with, but more restrictive than the terms and conditions in Section I, Paragraphs 1, 2, and 3, those more restrictive terms and conditions will control. If other sections of the ALE are more restrictive than Section I Paragraph 4 and Section II then Section I Paragraph 4 and Section II will control.

**SECTION I - MINIMUM CONSERVATION DEED RESTRICTIONS**

Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it may have been acquired previously as separate parcels, it will be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement will apply to the Protected Property as a whole.

The Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this easement, including the following:

**1. Agricultural Land Easement Plan.** As required by 16 U.S.C. Section 3865a, agricultural production and related uses of the Protected Property are subject to an ALE Plan, as approved NRCS, to promote the long-term viability of the land to meet the ALE purposes. The ALE Plan must also be approved by the Grantor and the Grantee. Grantor agrees the use of the property will be subject to the ALE Plan on the Protected Property.

The ALE Plan is incorporated by reference and must not include any provisions inconsistent with the conservation purposes of this ALE. The Grantee and Grantor agree to update the Plan in the event the agricultural uses of the Protected Property change. A copy of the current ALE Plan is kept on file with the Grantee.

The Grantee must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the Plan, NRCS may notify the Grantee. NRCS will give the Grantee and Grantor a reasonable amount of time, not to exceed 180 days, to take corrective action. If Grantee fails to enforce the terms of the ALE, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement.

**2. Limitation on Impervious Surfaces.** Impervious surfaces will not exceed [Insert approved impervious surface percentage] [Note: if greater than 2 percent, a written waiver from the Chief of NRCS or his or her authorized designee (Chief of NRCS) is required], of the Protected Property, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property;

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including, but not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this ALE.

*Include the following if limited subdivision is allowed below:* [In the event the Protected Property is subdivided as provided for in Section I, Paragraph (3)(A), the total cumulative impervious surface of the subdivided parcels must not exceed the impervious surface limitation referenced above. The Grantor, with Grantee approval, will allocate the impervious surface limit among the subdivided parcels and ensure said impervious surface limitation is clearly defined in each subdivided parcel's recorded instrument.]

**3. Limitations on Nonagricultural Uses.** Any activities inconsistent with the purposes of the ALE are prohibited. [Note: The term "ALE grassland enrollments" refers to both general ALE grazing uses enrollments or ALE Grassland of Special Environmental Significance enrollments (GSS).] [Also include the following sentence for ALE grassland enrollments: The provisions of this ALE limit the types of agricultural operations that can occur on the Protected Property to those that restore or conserve grassland, and protect grazing uses, and related conservation values]. The following activities are inconsistent with the purposes of ALE and specifically prohibited, subject to the qualifications stated below:

(A) *Subdivision* – [Select Option 1, 2, or 3.]

[**Option 1**] Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited, except where State or local regulations explicitly require subdivision to construct residences for employees working on the Protected Property. Grantor must provide written notice and evidence of such requirements to Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS) prior to division of the Protected Property.

[**Option 2**] The Protected Property must not be divided or subdivided into, or separately conveyed as, more than \_\_\_\_\_ farm or ranch parcels (\_\_\_\_ divisions allowed), the boundaries and the allocation of the impervious surface limitation of which have been identified in EXHIBIT \_\_\_\_, which is appended to and made a part of this ALE. To protect the [SELECT ONE: *agricultural use and future agricultural viability* OR *the grassland, grazing uses*], and related conservation values of the Protected Property, the boundaries of such divisions have been preapproved in writing by Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS). Deviations from the identified boundaries will not be allowed. Grantor must give Grantee and the Chief of NRCS written notice prior to subdividing, dividing or separately conveying a parcel of the Protected Property.

[**Option 3**] The Protected Property must not be divided or subdivided into, or separately conveyed as, more than \_\_\_\_\_ farm or ranch parcels (\_\_\_\_ divisions allowed). To protect the [SELECT ONE: *agricultural use and future agricultural viability* OR *the grassland,*

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*grazing uses*], and related conservation values of the Protected Property, the boundaries of such divisions must be approved in writing by Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS) before any such division, subdivision or separate conveyance occurs. The Chief of NRCS may only approve the division, subdivision or separate conveyance of the Protected Property into separately conveyable farm or ranch parcels when—

1. The Grantee requests the Chief of NRCS approval to subdivide the Protected Property into separate farm or ranch parcels, after receiving a request from the Grantor;
2. The Grantor certifies to the Chief of NRCS that the requested subdivision is required to keep all farm or ranch parcels in production and viable for agriculture use and that separate conveyance of the Protected Property farm or ranch parcels will move the land from one agricultural operation to another; and
3. The Chief of NRCS determines that the—

a. Parcels resulting from the subdivision of the Protected Property will meet ACEP land eligibility requirements of 16 U.S.C. Section 3865 et seq. as enacted on the date the original parcel was enrolled in ACEP, including the allocation of the impervious surface limitation between the subdivided parcels, and

b. The resulting parcel will not be below the median size of farms in the county or parish as determined by most recent United States Department of Agriculture's National Agricultural Statistical Survey (NASS).

(B) *Industrial or Commercial Uses* – Industrial or commercial activities on the Protected Property are prohibited except for the following:

- (i) agricultural production and related uses conducted as described in the ALE Plan;
- (ii) the sale of excess power generated in the operation of alternative energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the conservation purposes of this Easement;
- (iii) temporary or seasonal outdoor activities or events that do not harm the agricultural use, future viability, and related conservation values of the Protected Property herein protected;
- (iv) commercial enterprises related to agriculture or forestry including but not limited to agritourism, processing, packaging, and marketing of farm or forest products, farm machinery repair, and small-scale farm wineries; and
- (v) small-scale commercial enterprises compatible with agriculture or forestry,

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including but not limited to cafés, shops, and studios for arts or crafts.

(C) *Construction on the Protected Property* – All new structures and improvements must be located within the Building Envelopes, containing approximately \_\_\_\_\_ acres and described in EXHIBIT \_\_\_\_\_, which is appended to and made a part of the ALE.

The boundaries and location of the Building Envelopes may be adjusted if Grantee and the Chief of NRCS provide prior written approval of the adjusted boundaries and location. The Building Envelopes may not increase in size and the adjusted Building Envelopes must provide equal or greater protection of the [SELECT ONE: *agricultural use and future viability* OR *the grassland, grazing uses*], and related conservation values of the Protected Property.

Utilities to serve approved buildings or structures, including on-farm energy structures allowed under Section I, Paragraph (4)(C) and agricultural structures that neither individually nor collectively have an adverse impact on the [SELECT ONE: *agricultural use and future viability* OR *grassland, grazing uses*] and related conservation values of the Protected Property, may be built outside of the Building Envelope with prior written approval of the Grantee provided that the utilities or agricultural structures are consistent with the ALE Plan described Section I, Paragraph 1.

New roads may be constructed if they are within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property. **[The preceding sentence must be struck for ALE grassland enrollments].**

Maintenance of existing roads documented on the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.

Fences may be maintained and replaced and new fences installed if they are necessary for agricultural operations on the Protected Property or to mark boundaries of the Protected Property. **[For ALE grassland enrollments replace the preceding sentence with: Fences may be maintained and replaced only in accordance with the ALE Plan. Fences must be consistent with species management requirements.]**

(D) *Granting of easements for utilities and roads* – The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact [SELECT ONE: *the agricultural use and future viability* OR *the protection of the grazing uses, grassland conservation value*], and related conservation values of the Protected Property as determined by the Grantee in consultation with the Chief of NRCS.

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(E) *Surface Alteration* – Grading, blasting, filling, sod farming, earth removal or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows:

- (i) dam construction to create ponds for agricultural use, fire protection, or wildlife enhancement, or wetland restoration, enhancement or creation, in accordance with an ALE Plan;
- (ii) erosion and sediment control pursuant to a plan approved by the Grantee;
- (iii) as required in the construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Easement; or
- (iv) [SELECT ONE: *Agricultural activities OR Grazing uses or grassland restoration and conservation activities*] conducted in accordance with the ALE Plan.

(F) *Oil, Gas, or Mineral Exploration and Extraction* – Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this ALE or later acquired by Grantor, using any surface-mining, subsurface mining, or dredging method, from Protected Property is prohibited, except for limited mining activities for materials (e.g., sand, gravel, or shale) used for agricultural operations on the Protected Property. Extraction of materials used for agricultural operations must be limited to a small, defined area or acreage identified in EXHIBIT \_\_\_\_\_ and must not harm the conservation values or the agricultural uses of the Protected Property.

[Beginning of Alternate Oil and Gas Language: *The following may be inserted if Grantee chooses to allow oil and gas exploration and extraction as an alternative to a complete prohibition on oil or gas exploration and extraction on the Parcel:* Oil and gas exploration and extraction on the Protected Property is permitted in accordance with this Paragraph (F), if approved by Grantee and NRCS. Grantee and Grantor must demonstrate that such exploration and extraction of oil and gas is—

- (i) not accomplished by any surface mining method;
- (ii) accomplished by a method of extraction, production, and transport that has no more than a limited and localized impact that does not harm the agricultural use or conservation values of the Protected Property;
- (iii) within the impervious surface limits of the ALE; and
- (iv) subject to a plan that includes provisions for oil and gas exploration and



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extraction.

Any mineral leases or other conveyances of minerals entered into or renewed after the date of this ALE Deed are subordinate to the terms of this Deed and will incorporate by reference this Deed.

Impervious surfaces as defined in [Insert Citation to Impervious Surface Limitation] of this Easement will include any surface disturbance or impervious surfaces associated with oil and gas exploration and extraction associated with uses permitted by this paragraph. *End of Alternate Oil and Gas Language]*

If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this ALE is executed, and their interests have not been subordinated to this ALE, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this paragraph (F).

(G) [For ALE grassland enrollments] *Crop Cultivation*. Except for grazing uses and grassland restoration and conservation permitted in [Cite Permitted Uses Section], the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial nongrassland agricultural product is prohibited.

**4. Preserving Agricultural Uses.** The provisions of this ALE Deed and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Protected Property, so long as the agricultural operations are consistent with the ALE Plan and do not violate Federal laws, including Federal drug laws. [The preceding sentence must be struck for ALE grassland enrollments.] No uses will be allowed that decrease the ALE's protection for [SELECT ONE: the agricultural use and future viability, and related conservation values OR the grazing uses and related conservation values or adversely impact the restoration or conservation of the grassland, and related conservation values] of the Protected Property. Allowed uses of the Protected Property include, the specific uses allowed in Section I, Paragraph (3)(B) (i)-(vii) and the following activities, subject to the qualifications stated below:

(A) *Agricultural Production* – The production, processing, and marketing of [SELECT ONE: agricultural crops and livestock OR livestock and agricultural products compatible with restoration and conservation of grassland, grazing uses, and related conservation values] is allowed provided it is conducted in a manner consistent with the terms of the ALE Plan described in Section I, Paragraph 1.

(B) *Forest Management and Timber Harvest* – Forest management and timber harvesting is allowed, provided it is carried out to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the

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Protected Property. In addition, if the Protected Property contains 40 contiguous acres of forest or 20 percent of the Protected Property is forestland then forest management and timber harvesting must be performed in accordance with a written forest management plan. The forest management plan must be prepared by a professional resource manager, in consultation with the Grantee. A forest management plan will not be required for the following allowed noncommercial activities: (i) cutting of trees for the construction of allowed roads, utilities, buildings and structures on the Protected Property, (ii) cutting of trees for trail clearing, (iii) cutting of trees for domestic use as firewood or for other domestic uses by Grantor, (iv) removal of trees posing an imminent hazard to the health or safety of persons or livestock, or (v) removal of invasive species.

(C) *On-Farm Energy Production* – Renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained within impervious surface limits, with minimal impact on the conservation values of the Protected Property and consistent with the purposes of the ALE.

(D) *Grassland Uses of the Protected Property* – Grantors are allowed to graze, hay, harvest for hay and noncrop seed production, mow, construct fire breaks, conduct fire suppression and rehabilitation activities, and conduct common grazing practices, including cultural practices, consistent with the provisions and conservation purposes of this ALE. The term "common grazing practices" means those practices customary to the region where the Protected Property is located related to livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Protected Property. Grantors must not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified by Grantee or NRCS. Determinations of nesting seasons for birds whose populations are in significant decline will be made in writing to the Grantors, or set forth within the ALE Plan for the Protected Property.

*[If Land Eligibility is based on the presence of historical or archaeological resources or the project received ranking points for the multifunctional benefits of agricultural land protection for historical and archaeological resources, include the following paragraph]*

**5. Historic or Archaeological Resources.** Existing archaeologically, culturally, or historically significant features on the Protected Property including, but not limited to, such features as documented in the Baseline Documentation Report, must be maintained consistent with the guidelines provided in The Secretary of Department of the Interior's Standards for the Treatment of Historic Properties pursuant to 36 CFR Part 68, as amended. The up-to-date version of such guidelines must be maintained by Grantee in the Baseline Documentation and made available to Grantor upon request. The archaeologically, culturally, or historically significant features may not be altered or removed without Grantee's prior written approval, which approval will not be given except where the proposed activity is accomplished in accordance with the guidelines provided in The Secretary of The Department of the Interior's Standards for the Treatment of

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Historic Properties.

## **SECTION II - PROTECTION OF THE UNITED STATES' INTERESTS**

1. **United States Right of Enforcement.** Pursuant to 16 U.S.C. Section 3865 et seq., the United States is granted the right of enforcement that it may exercise only if the terms of the ALE are not enforced by the holder of the ALE. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantee, or its successors or assigns, fails to enforce any of the terms of this ALE, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney's fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney's fees and expenses related to Grantee's violations or failure to enforce the easement against the Grantor.

The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the ALE and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the ALE, the ALE Plan, and the United States Cooperative Agreement with the Grantee, the United States will have reasonable access to the Protected Property with advance notice to Grantee and Grantor or Grantor's representative.

In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantee and Grantor or Grantor's representative at the earliest practicable time.

3. **General Disclaimer.** The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantor's negligent acts or omissions or Grantee's or Grantor's breach of any representation, warranty, covenant, or agreements contained in this ALE Deed, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the Protected Property.

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**4. Environmental Warranty.** Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Moreover, Grantor hereby promises to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

**5. Extinguishment, Termination, and Condemnation.** The interests and rights under this Agricultural Land Easement may only be extinguished or terminated with written approval of the Grantee and the United States. Due to the Federal interest in this ALE, the United States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its Federal interest in the Protected Property.

With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the ALE is \_\_\_\_\_ percent, hereinafter the "Proportionate Share," of the fair market value of the land unencumbered by this ALE. The Proportionate Share will remain constant over time.

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If this ALE is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this ALE. The fair market value will be determined at the time all or a part of this ALE is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.

The allocation of the Proportionate Share between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, \_\_\_\_\_ percent of the Proportionate Share; and (b) to the United States \_\_\_\_\_ percent of the Proportionate Share. Until such time as the Grantee and the United States receive the Proportionate Share from the Grantor or the Grantor's successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.

**6. Amendment.** This ALE may be amended only if, in the sole and exclusive judgment of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of this ALE and complies with all applicable laws and regulations. The Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended ALE, such amendments must be mutually agreed upon by the Grantee, Grantor, and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void.